

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**EFFORT ALEXANDER**

**PLAINTIFF**

**VS.**

**CAUSE NO. 3:16CV00202-GHD-JMV**

**JIM HOOD, *Attorney General*  
*for State of Mississippi, et al.***

**DEFENDANT**

**ORDER**

This matter is before the court on Plaintiff's Motion [55] Under Rule 60(b) Of FRCP For Relief From The Order Staying Certain Proceedings Pending Ruling On Defendant's Motion To Dismiss. For the reasons discussed below, the motion is denied.

As Plaintiff correctly notes, this court, acting pursuant to Local Rule 16 (b)(3)(A)-(C), stayed this case pending a decision on the defendants' motion to dismiss for lack of personal jurisdiction, qualified immunity, and Eleventh Amendment immunity. According to Plaintiff, the stay should be lifted because the portion of the motion raising the jurisdictional defense was not asserted until after the case management conference (CMC). Again, Plaintiff is correct that the jurisdictional defense was not raised before the CMC and that failure typically waives the stay provision of the local rule. However, pursuant to the same local rule, raising an immunity defense after the CMC does *not* result in a waiver of the stay provision; and, it is on this basis the court relied in staying this case.

As concerns the balance of Plaintiff's arguments, they appear to concern his view of the merits of the immunity and jurisdictional defenses raised in the motion to dismiss. These matters are the province of the district judge to determine in ruling on the pending motion to dismiss. If, as Plaintiff suggests, the district judge determines the defenses are without merit, the stay will be

lifted. On the other hand, if it is determined that the motion to dismiss is meritorious, then the court and litigants will have avoided the unnecessary expense of judicial resources and time and money, respectively. In conclusion, the court is not persuaded that Plaintiff has brought forth any good cause to justify lifting the mandated stay in this case. Accordingly, the motion is denied.

SO ORDERED this 20<sup>th</sup> day of March, 2017.

/s/ Jane M. Virden  
U.S. MAGISTRATE JUDGE